

FILED

IN CLERKS OFFICE
U.S. DISTRICT COURT N.Y.

★ JUN 28 2007 ★

P.M. _____
TIME A.M. _____

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,

-against-

03 CR 0072 (SJ)

MEMORANDUM
AND ORDER

JOEL CACACE,

Defendant-Petitioner.

-----X
A P P E A R A N C E S

JOEL CACACE
25136-077
United States Penitentiary
P.O. Box 26030
Beaumont, Texas 77720-6030
Petitioner *Pro Se*

ROSLYNN R. MAUSKOPF, ESQ.
United States Attorney
Eastern District of New York
One Pierrepont Plaza
Brooklyn, New York 11201
By: Peter Norling, Esq.
Attorney for Respondent

JOHNSON, Senior District Judge:

Presently before the Court is a motion by Defendant-Petitioner Joel Cacace ("Petitioner"), acting *pro se*, for the Court's recusal (the "Motion for Recusal"), pursuant to 28 U.S.C. § 455. For the reasons set forth below, Petitioner is hereby

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ordered to identify the case in controversy that is the subject of his Motion for Recusal.

On December 8, 2004, this Court sentenced Petitioner to 240 months incarceration, five years of post-release supervision, a \$100.00 special assessment, and restitution in the amount of \$21,292.50. See Docket No. 03 CR 0072, Entry 335. The Court further recommended that Petitioner be confined in a "supermax" facility. See Docket No. 03 CR 0072, Entry 335. Petitioner, through counsel, indicated a desire to appeal his sentence, and did so on December 8, 2004. See Docket No. 03 CR 0072, Entry 342. However, on November 30, 2005, the Court of Appeals for the Second Circuit dismissed Petitioner's direct appeal for a failure to prosecute. See Docket No. 03 CR 0072, Entry 352.

Consequently, it appears that Petitioner does not currently have an open case before this Court or any other court. Accordingly, Petitioner seemingly lacks standing to move this Court to recuse itself from any further proceeding. See U.S. Const. art. III, § 1 et seq. Petitioner is thus ordered to show cause within sixty (60) days of the receipt of this Order as to which case in controversy he wishes the Court to recuse itself from.

SO ORDERED.

DATED: Brooklyn, New York
June 7th, 2007

/s/ SJ

Senior U.S.D.J.